



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,991	02/14/2001	Ning Guo	22171.240	2008
27683	7590	09/02/2005		
HAYNES AND BOONE, LLP 901 MAIN STREET, SUITE 3100 DALLAS, TX 75202			EXAMINER LEE, CHI HO A	
			ART UNIT 2663	PAPER NUMBER

DATE MAILED: 09/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/762,991	GUO ET AL.	
	Examiner	Art Unit	
	Andrew Lee	2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 July 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 4,6-12 and 14-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 4, 9, 12, 14, 17, 18, 21 is/are allowed.
- 6) Claim(s) 6-8,10,11,15,16,19 and 20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 6, 7, 10, 11, 15, 16, 19, 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15, refer to Claim 4, it is unclear where the tail bits are located.

Re Claims 7, 16, it is unclear what is meant by "*a relatively high throughput*".

Furthermore, It is unclear how "the number of ARQ blocks" are determined or generated "responsive to the "environment" for "producing a relatively high throughput". Applicant is requested to reference the specification so mete and bounds can be determined. "a relatively high throughput" should be deleted.

Claim 6 depends on Claim 7.

Claims 10, 19, refer to Claim 7, it is unclear what is meant by "wherein the number of FEC blocks and ARQ blocks are modifiable to balance requirement for data transmission and voice transmission". In particular, mete and bounds cannot be determined because "balance requirements for data transmission and voice transmission" is unknown.

Claims 11, 20, refer to Claim 7, it is unclear what is meant by "mobile station complexity". Applicant is request to reference the specification so mete and bounds can be determined.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jayapalan U.S. Patent Number 5,533,019.

Re Claim 7, Fig. 1 teaches a base station (an apparatus comprising a node) for transmitting wireless signals wherein the signal is according to fig. 4 wherein the frame structure 60 includes one or more FEC blocks 385 and within FEC includes one or more MDLP bits (ARQ blocks) (See col. 7, lines 1-10) wherein the MDLP blocks includes information data and plurality of continuity bits (overhead bits) (See col. 5, lines 45-56). ARQ is inherently response to the noisy environment to retransmit data and reproduce data for relatively high throughput.

As Jayapalan teaches that that frame structure can be used in radio systems, Jayapalan fails to explicitly teach, "a node of a spread spectrum wireless network". However, it is known that CDMA systems supports packet transmission. Hence, one skilled in the art would have been motivated to use the packet structure of Jayapalan to

improve reliability and throughput, i.e., the packet includes ARQ and FEC blocks for transmitting user data.

Therefore, it would have been obvious to one ordinary skilled to used the packet structure in Jayapalan in a spread spectrum wireless networks.

Re Claim 8, refer to Claim 7, wherein the base station supports both voice and data hence, the ARQ is responsive to whether the information is voice or data.

Allowable Subject Matter

6. Claims 4, 9, 12, 14, 17, 18, 21 are allowed.
7. Claims 15, 16, 19, 20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Lee whose telephone number is 571-272-3130. The examiner can normally be reached on Monday to Friday from 8:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AI
7/28/05

ANDY LEE
PATENT EXAMINER
